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November 8, 2007

VIA FACSIMILE

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DOCKET IN CASE #

LS:

Letter

CLB/USDJ

Re: The Guardian News, Inc. v. Amicone, et al.
ECF Case No. 07 Civ. 7078 (CLB)

DATED

Dear Jon:

Due to the expedited nature of the discovery in preparation for Tuesday's commencement of a permanent injunction hearing, I write to respond to Plaintiffs' Deposition Witness List and Subpoenas seeking the appearance of Mayor Amicone, Commissioners Hartnett and Liszewski and Lawrence Porcari (collectively, the "Witnesses") for deposition. By this letter, we are informing you that the City will not be producing the Witnesses for deposition.

As you are aware, you deposed seven witnesses yesterday and Defendants are scheduled to produce approximately five additional witnesses for deposition tomorrow. We contend that the depositions of the Witnesses is not necessary and that conducting the depositions of the Witnesses is unreasonably cumulative and duplicative, is obtainable from other sources and the burden and expense of the proposed depositions outweigh the likely benefit. This is particularly the case when, as here, in this Permanent Injunction Hearing, there are no significant factual issues in dispute.

Finally, not a single witness deposed has indicated that any of the Witnesses had anything to do with the conduct alleged in the complaint filed in this matter. It is apparent that Plaintiffs' request to depose the Witnesses is simply a "fishing expedition".

Accordingly, we will not be producing the Witnesses for deposition.

Very truly yours,

Kevin J. Plunkett

cc: Frank Rubino, Esq.

New York, NY

Washington, DC

White Plains, NY

Summit, NJ

México City, México